

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,

CRIM-12CK-00-03

JUDGE'S COPY

Plaintiff,

VS.

U.S. District Judge Ram
Magistrate Judge Smyse

KENNETH D. KYLER, et al.,

Defendants.

FILED
HARRISBURG

JUN 08 2001

MARY E. D'ANDREA, CLERK
Per. AK
DEPUTY CLERK

MOTION TO STRIKE DOCUMENTS SUPPORTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM
SUPPORT AND BRIEF IN SUPPORT

COMES NOW, the Plaintiff & *Pro Se* Counsel in the above-entitled
CIVIL ACTION, John Richard Jae, as a layman unlettered in the Arts &
of the Laws & legal Procedures within the United States & now
files his Motion To Strike Documents Supporting Defendants' Motion
For Summary Judgment And Memorandum In Support And
Brief In Support, pursuant to Fed. R. Civ. P. 12(f), hereby
& who, avers, deposes & states:

The Motion

1. On or About October 17, 2000, Defendants, by course,
Filed their Motion For Summary Judgment and Statement of
Undisputed Facts, herein the above-entitled CIVIL ACTION.

2. On or About December 5, 2000, Defendants, by course, filed
Memorandum In Support of Motion For Summary Judgment and the
Documents Supporting Defendants' Motion For Summary Judgment, herein
case.

3- Plaintiff John Richard Jarenow ~~files~~ ^{is} motion
Strike Documents Supporting Defendants' Motion For Summary
Judgment And Memorandum In Support And Brief In Support, her
this case, and moves this court to strike such ~~defendants' violation of Fed. R. C. P. R. Rules 12(b)(1) & (e) & 56(e).~~
BRIEF IN SUPPORT

Plaintiff John Richard Jarenow ~~averts~~ ^{submits}, that
R. C. P. R. Rules 12(b)(1) & (e) & 56(e), state, as follows:

12(b) How Presented. Every defense, in law or
fact, to a claim for relief in any pleading,
whether a claim counter claim, cross claim, or
third-party claim, shall be asserted in the responsive
pleading thereto if one is required, except that
the following defenses may at the option of the
pleader be made by motion:

- (1) lack of jurisdiction over the subject matter;
- (2) lack of jurisdiction over the person;
- (6) failure to state a claim upon which relief can
be granted, - - -

56(e) Form of Affidavits; Testimony; Defense Required.
Supporting and opposing affidavits shall be made
on personal knowledge, shall set forth such facts as would
be admissible in evidence, and shall show affirmatively
that the affiant is competent to testify to
the matters stated therein. Sworn or certified
copies of all papers or parts thereof referred
to in an affidavit shall be attached thereto or
served therewith. - - -

Defendants' Documents Supporting Defendants' Motion For Summary Judgment and Argument Points II-, of their Memorandum In Support of Motion For Summary Judgment, herein this case, violate Fed. R. Civ. P., Rules 12(b)(1)(2) & (6) & 56(e), as set forth below, and as such contain material which is impertinent and scandalous matter and contains an insufficient defense, shall must be ordered stricken accordance with Fed. Civ. P. ^{Rules} 11(c)(1)(A) and 12(f).

The Documents supporting the Defendants' Motion For Summary Judgment, in this case sub judice, contain impertinent and scandalous matter as such documents are "not" sworn or certified copies of papers or parts thereof, such violate and run afoul of Fed. R. Civ. P. 56 and thus Defendants, by federal law, may not use nor rely upon such and this Court, by federal law, "must" or such stricken and may not legally consider any of it.

Argument Parts I and II of the Defendants' Memorandum In Support of Motion For Summary Judgment, in this case sub judice, contains material which is impertinent and scandalous matter and an insufficient defense as such by federal law, have been raised in a Motion To Dismiss The Complaint, filed pursuant to Fed. R. Civ. P., Rule 12(b)(1)(2) & (6), however Defendants did "not" do so herein this case, & thus, as a consequence, they "have" violated proper procedure, have violated Fed. R. Civ. P., 12(b)(1)(2) & (6), & thus, are, by federal law, barred from raising

all of that stated therein Argument Points I and II, in their memorandum ~~in~~ support of Motion For Summary Judgment, and this Court MUST follow & abide by the controlling Federal Law it has taken on to uphold & strike Argument Points I and II, in their entirety from Defendants' memorandum in ^{support of} Motion For Summary Judgment, herein this case, under & pursuant to Fed. R. Cr. P., Rule 12(b)(1)(2) & (6) or 11(c)(1)(A) as a violation of Fed. R. Cr. P., Rule 11(b)(2).

(w) HEREFOR, Plaintiff John Richard Jae, Prays that this Court will enter an order striking the Document supporting Defendants' Motion For Summary Judgment in their entirety, pursuant to Fed. R. Cr. P. 11(c)(1)(A) or Fed. R. Cr. P. 12(f), for Defendants' violation of Fed. R. Cr. P. 11(b)(2) and striking Argument Points I and II, of Defendants' memorandum in support of Motion For Summary Judgment in their entirety, pursuant to Fed. R. Cr. P. 11(c)(1)(A) or Fed. R. Cr. P. 12(f), for Defendants' violation of Fed. R. Cr. P. 11(b)(2) & 12(b)(1)(2) & (6) based upon that stated & argued herein above & supra:

AND HE SHALL EVER PRAY:

RESPECTFULLY SUBMITTED:

(s) John Richard Jae

MR. JOHN RICHARD JAE,

Dated: 3rd JUNE 2001: #BQ-3219

SCJ-Greene/SMU

175 Progress Drive

Waynesburg, PA 15370-8089

el 314-444-4444 and PR 314-444-4444

JONES - KYLER, et al.,
 CIVIL NO. 1:00-CV-00315
CERTIFICATE OF SERVICE

I certify that on 6-05-01, I mailed to the person listed below a true & correct carbon copy of each of the Plaintiff's Motion, Documents Supporting Defendants' Motion For Summary Judgment, Memorandum In Support and Brief In Support, Motion For Stay And Entry In Support, Motion For Leave Of Court To File A Brief In Opposition To Defendants' Motion For Summary Judgment And Memorandum In Support which exceeds the fifteen (15) page Under M.D. LR 7.8 And Brief In Support and Motion For order of requiring SCI-Greene prison officials to return to this Plaintiff his legal materials, court case files and law books and to provide him with enough paper, carbon paper and envelopes to enable him meet court dead lines, Inter Alia Petition For writ of Mandamus And Brief In Support by U.S. let class mail, postage prepaid & addressed

MR - Michael L. Harvey, SDA
 OFFICE OF THE ATTORNEY GENERAL OF PENNSYLVANIA
 15th Floor - Strawberry Square

Harrisburg, PA 17120

I certify that on 6-05-01, I gave to prison officials here at this court, the originals of each of the above-mentioned documents.

I certify under penalty of perjury that the above, is true & correct pursuant to 28 U.S.C. § 1746.

Dated/Executed on:

5th JUNE 2001:

Ats Waynesburg, Pennsylvania:

(s) John Richard Jones
 MR. JOHN RICHARD JONES
 #AQ-3219
 SCI-Greene/PMU
 175 Progress Drive
 Waynesburg, PA 15370

Plaintiff and As Sec Ca